

JERRY QUINN DAVIS, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 04-4008-CV-C-SOW  
 )  
 FULTON STATE HOSPITAL, et al., )  
 )  
 Defendants. )

On April 19, 2005, the United States Magistrate Judge recommended that plaintiff's claims against defendants Fulton State Hospital, Dr. Felix Vincenz and Enrique Dos Santos be dismissed, pursuant to Fed. R. Civ. P. 4(m), and that the February 9, 2005, motion of defendants Schuffman, McFarland, Menditto and Lyle to dismiss for plaintiff's failure to state a claim against them be granted. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

Although plaintiff filed a motion for extension of time on May 3, 2005, citing his lack of access to legal materials, the court denies the motion. Plaintiff was put on notice by defendants' motion and the Magistrate Judge's recommendation that he needed to identify how the named defendants were involved in his allegations in order to prevent dismissal of his claims. Setting forth factual allegations as to how each defendant was personally involved in the alleged constitutional violations against him does not require legal research by the plaintiff. Therefore, the court finds that dismissal is appropriate as recommended by the Magistrate Judge. Nevertheless, dismissal will be without prejudice to refiling if plaintiff can show actionable personal involvement by the defendants. Plaintiff is advised that if he refiles and

fails to set forth sufficient facts to show personal involvement by the defendants, his claims will be subject to dismissal, with prejudice.

Plaintiff has failed to serve process on defendants Fulton State Hospital, Vincenz, and Dos Santos. Despite the recommendation of the Magistrate Judge, plaintiff has failed to provide the court with addresses where such defendants can be served. Therefore, pursuant to Fed. R. Civ. P. 4(m), plaintiff's claims against defendants Fulton State Hospital, Vincenz, and Dos Santos are dismissed.

IT IS, THEREFORE, ORDERED that plaintiff's claims against defendants Fulton State Hospital, Dr. Felix Vincenz and Enrique Dos Santos are dismissed, pursuant to Fed. R. Civ. P. 4(m), without prejudice. It is further

ORDERED that the motion of defendants Schuffman, McFarland, Menditto and Lyle to dismiss plaintiff's claims against them is granted and plaintiff's claims are dismissed, without prejudice [27]. It is further

ORDERED that plaintiff's motion of May 3, 2005, for an extension of time is denied [39].

/s/Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

Dated: 5-17-05